

IN THE HIGH COURT OF TRIPURA
AGARTALA

L.A. APP. NO.106 OF 2013

1. The State of Tripura,
represented by the Secretary,
Revenue, Govt. of Tripura,
Capital Complex, P.O. Kunjaban, Agartala, West Tripura

2. The Land Acquisition Collector,
Dhalai, Tripura, P.O. Ambassa

..... Appellants

Vs.

1. Sri Mintu Paul,
son of Sri Kshirode Paul,
resident of village Manughat,
P.S. Manu, District : Dhalai

.....Respondent

2. Officer Commanding,
122, RCC GREF (PIN : 930112),
c/o 99 APO, Khasia Bari,
P.O. Panisagar, North Tripura

.....Proforma-respondent

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the appellants : Mr. G.S. Bhattacharji, Advocate

For the respondents : Mr. S.S. Debnath, Advocate

Date of hearing & order : 04.08.2015

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. G.S. Bhattacharji, learned counsel appearing for the appellants, the appropriate Government and the Land Acquisition Collector as well as Mr. S.S. Debnath, learned counsel appearing for the respondent No.1, the land-losers. Despite due notice from this court, none appears for the respondent No.2, 122 RCC GREF, the requiring department.

2. This is an appeal under Section 54 of the Land Acquisition Act, 1894, questioning the legality of the judgment and award dated 12.10.2010 delivered in Misc.(LA) 08/2009 by the Land Acquisition Judge, North Tripura, Kailashahar.

3. The facts are mostly admitted.

A piece of land measuring .01 acre of nal class (doka viti) was acquired from the respondent No.1 and that land pertained to C.S. plot No.751(P) of Khatian No.308 in Mouja Manu for construction of National Highway, being NH 44/A from Manu to Simlowng. The notification under Section 4 of the Land Acquisition Act, 1894 was published on 27.04.2004 vide No.F.9(5)-REV/ACQ/V/2003. That acquisition was in the nature of compulsory urgent acquisition and that is the reason why the notification was issued under Section 4 read with Section 17(1) of the Land

Acquisition Act. It is also not in dispute that the possession was taken after making the award to the petitioner. The total award made to the petitioner was ₹37,730, out of which ₹25,000 was for the land, ₹5,700 for trees and ₹5,230 crops and for some other damages. The petitioner felt aggrieved by the said award as made under Section 11 of the said Act and he pressed for the reference under Section 18 of the L.A. Act for determination of the just land value and damage. Thus the reference, being Civil Misc.(LA)08/2009 was made to the Land Acquisition Judge, North Tripura, Kailashahar.

4. It appears from the record that while assessing the land value in the inquiry as taken up under Section 11 of the Land Acquisition Act, the Land Acquisition Judge considered various factors including the location of the land, class of the land as well as their potential and advantages and the land as acquired from Mouja Manu were divided in five locations, vide Block-A, Block-B, Block-C, Block-D and Block-E. Under those locations, different rate for the different classes of land was awarded by the Land Acquisition Collector ranging from ₹1,40,000 to ₹1,60,000 per kani. For arriving at such land rate, the Land Acquisition Collector considered as many as five sale instances and their land value at the time of transaction was taken into consideration. For purpose of consideration, the sale

instances, the area of land transacted under those sale and their rate per kani etc. are given hereunder in a tabular form.

Sl. No.	Deed No. & date	C.S. Plot No.	Area	Class of land	value of land sold	Rate per kani
1.	1-235 dt.25.08.00	1340,1342	0.10	Tilla, Bhiti(Tilla)	Rs.10,000/-	Rs.40,000/-
2.	1-233 dt.25.08.00	1340,1341, 1342	0.05	Tilla	Rs.9,000/-	Rs.72,000/-
3.	1-234 dt.25.08.2000	1341,1342	0.06	Tilla, Bastu	Rs.8,000/-	Rs.53,333/-
4.	1-236 dt.25.08.00	1340,1342	0.11	Tilla, Bhiti(Tilla)	Rs.10,000/-	Rs.36,364/-
5.	1-144 dt.5.9.2000	372,1874	0.09	Layakpatit (Nal)	Rs.20,000/-	Rs.88,889/-

It would be apparent from the sale instances that the maximum land value was at Rs. ₹88,889 per kani.

5. By filing the claim petition, the referring claimant, the respondent No.1 herein, claimed ₹90,00,000 per kani, whereas he had been offered the land value at ₹10,00,000 per kani. In support of his claim, the land-loser adduced four registered sale deeds, such as sale deed No.1-332 dated 18.05.1998, sale deed No.10333 dated 20.08.1998, sale deed No.1-9 dated 29.05.1999 and sale deed No.1-250 dated 26.08.2005. No cross-examination was carried out by the Land Acquisition Collector, who was resisting the reference on the various aspects related to those sale deeds or on the assessment of damage.

6. From the Land Acquisition Collector, one Arabinda Deb was examined. He was working as the Amin in the office of the Land Acquisition Collector, Dhalai, Tripura. According to him, the

assessment made by the Land Acquisition Collector is verily correct as having regard to the advantages and the location of the land, ₹10,00,000 per kani is an adequate rate. But, in the cross-examination, he has stated as under :

“Acquired land is situated in the Manughat market area. No specific sale deed is not relied on by us while giving the compensation. It is not a fact that improper award is given. It is not a fact that there was a building in the acquired land. There was a medicine shop in the acquired land.”

As it has been pointed out that no damages for the building or the assets over the land was granted by the impugned judgment, the Land Acquisition Judge has awarded a sum of ₹2,50,000.

7. Mr. G.S. Bhattacharji, learned counsel appearing for the appellants has submitted that there is no adequate evidence to show that there was a building and that the impugned judgment is sustainable inasmuch as the Land Acquisition Judge has granted the land value at the rate of ₹30,00,000 per kani, enhancing the rate from ₹10,00,000 per kani. He has further submitted that the Land Acquisition Judge has relied on the assessment of a private assessor for purpose of awarding the damage, but such assessment report by the private assessor, Exbt.1 series, cannot be relied on. As already stated, there has been no cross-examination in this regard. As such, the appellants are estopped to raise any further objection

in respect of the assessment made by the private assessor by way of the report (Exbt.1 series).

8. Having regard to the location, advantages and also of the yearly increase in the land rate, this court is of the view that the land value as determined by the Land Acquisition Judge cannot be held to be exorbitantly higher. As the referring claimant, the respondent No.1 herein, did not prefer any appeal against the said judgment, this court is not inclined to direct its consideration as to whether the referring claimant ought to have been given far more compensation, as indicated by Mr. S.S. Debnath, learned counsel appearing for the respondent No.1.

9. As such, this court does not find any merit in this appeal. Accordingly, it is dismissed.

Draw the award accordingly. Send down the LCRs forthwith.

JUDGE

ROY